

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

WALTER L. TAMOSAITS, PHD,
an individual, and SANDRA B.
TAMOSAITS, representing the
marital community,

Plaintiffs,

vs.

URS CORPORATION a Delaware
Corporation; URS ENERGY &
CONSTRUCTION, INC., an Ohio
Corporation, and the DEPARTMENT
OF ENERGY,

Defendants.

No. CV-11-5157-LRS

**ORDER GRANTING
MOTION TO DISMISS
CLAIMS BY SANDRA
TAMOSAITS**

BEFORE THE COURT is the Motion To Summarily Dismiss All Claims By Sandra Tamosaitis (ECF No. 51) filed by Defendants URS Corporation¹ and URS Energy & Construction, Inc. (“URS Defendants”). This motion was heard with oral argument on May 3, 2012. Matthew W. Daley, Esq., argued for the URS Defendants. John P. Sheridan, Esq., argued for Plaintiffs.

¹ “URS Inc.” was named as a Defendant in Plaintiffs’ original Complaint (ECF No. 1), but there is no such entity. Plaintiffs’ First Amended Complaint (ECF No. 7) dropped “URS., Inc.” as a Defendant and added “URS Corporation” as a Defendant. In previous orders, the court used a caption identifying “URS, Inc.” as a Defendant, but has now corrected the caption to name “URS Corporation” as a Defendant.

**ORDER GRANTING MOTION TO
DISMISS CLAIMS BY SANDRA TAMOSAITS- 1**

1 Plaintiff Sandra Tamosaitis joins her husband, Walter L. Tamosaitis, Ph.D.,
2 in asserting a cause of action against the Defendants for alleged violation of the
3 whistleblowing provisions of the Energy Reorganization Act (ERA), 42 U.S.C.
4 §5851. Only an “employee” can invoke the protection of the whistleblowing
5 provisions. The alleged discrimination must be “related to or arise[] out of the
6 employment relationship.” *Connecticut Light & Power Co. v. Sec’y of U.S. Dept.*
7 *of Labor*, 85 F.3d 89, 94 (2nd Cir. 1996). In Plaintiffs’ First Amended Complaint
8 (ECF No. 7), Mrs. Tamosaitis does not allege she is or ever was employed by any
9 of the named Defendants. Furthermore, Mrs. Tamosaitis does not allege she
10 personally engaged in any of the protected conduct set forth in §5851(a)(1) for
11 which she personally suffered discrimination. Mrs. Tamosaitis’s asserted state law
12 community property interest in her husband’s ERA claim is insufficient to confer
13 standing upon her in an action governed by federal law which requires that a
14 complainant be an employee who allegedly suffered discrimination relating to or
15 arising out of her employment relationship.

16 For these reasons, the URS Defendants’ Motion To Summarily Dismiss All
17 Claims By Sandra Tamosaitis (ECF No. 51) is **GRANTED** and all claims asserted
18 by her in this action are **DISMISSED** with prejudice. This dismissal is pursuant
19 to Fed. R. Civ. P. 12(b)(6) for failure to state a claim under the ERA which can be
20 granted.

21 **IT IS SO ORDERED.** The District Executive shall forward copies this
22 order to counsel of record.

23 **DATED** this 1st of June, 2012.

24
25 *s/Lonny R. Suko*

26 _____
27 LONNY R. SUKO
28 United States District Judge

**ORDER GRANTING MOTION TO
DISMISS CLAIMS BY SANDRA TAMOSAITS- 2**